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Fifth report of the Secretary-General pursuant to paragraph 14 of resolution 1284 (1999)

I. Introduction

1. The present report is submitted pursuant to paragraph 14 of Security Council resolution 1284 (1999), in which the Council requested me to report every four months on compliance by Iraq with its obligations regarding the repatriation or return of all Kuwaiti and third-country nationals or their remains.

2. Since the adoption of resolution 1284 (1999) on 17 December 1999, I have submitted two reports (S/2000/347 and Corr.1 and S/2000/1197) that addressed the humanitarian issues of the repatriation or return of all Kuwaiti and third-country nationals or their remains. On 17 August 2000 and 20 April 2001, the high-level Coordinator also briefed the Security Council. The present report covers relevant developments that have taken place in the period since the last report of the Secretary-General on this issue.

II. Background

3. During my meeting on 26 and 27 February 2001 with the Minister for Foreign Affairs of Iraq, Mohammad Said Al-Sahaf, and his delegation, the issue of the repatriation or return of all Kuwaiti and third-country nationals or their remains was discussed. I urged my Iraqi interlocutors to make every effort to resolve this outstanding humanitarian issue of great concern to the international community. The Iraqi side stated that Iraq repatriated all prisoners of war and performed and continues to perform its duty to cooperate in accounting for missing persons.

4. On 22 March 2001, during a meeting with Sheikh Salem Sabah Al-Salem Al Sabah, Chairman of the National Committee for Missing Persons and Prisoners of War of Kuwait, I reiterated my intention, during the next round of talks with the Government of Iraq, to enter into more detail on the issue of the repatriation or return of all Kuwaiti and third-country nationals or their remains.

5. While briefing the Security Council on 20 April 2001, the Coordinator stated that one year after his appointment to the post, despite all efforts, he had been unable to report a breakthrough on the issue of the repatriation or return of all Kuwaiti and third-country nationals and that no Kuwaiti or third-country nationals had returned to their families. The President of the Security Council stated to the press that "there has been no movement whatsoever" on this issue in recent months and that "this is one area where the Security Council is unanimous on Iraq — in support for the work of Ambassador Vorontsov and for his future and his continuing efforts and also in expressing deep concern at the plight of Kuwaiti and third-country nationals still missing". He expressed the hope that "at some stage soon and at last" there would be some progress on this strictly humanitarian issue, and also stated that members of the Council, convinced that "there is more information to be given from the Iraqi side," had urged the Government of Iraq to cooperate fully with Ambassador Vorontsov and with all others dealing with this issue. Noting that the matter had already taken "far too long" to resolve, he further stated members of the Council "were very keen that when Member States have contacts with Iraq, when the Secretariat has contacts with Iraq, that this issue should continue to be brought up and must be ground away at until we have some results".

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6. In a letter addressed to me, dated 24 May 2001 (A/55/956-S/2001/526), the Permanent Representative of Bahrain to the United Nations enclosed the joint communiqué of the eleventh session of the Ministerial Council of the Cooperation Council of the Gulf Arab States and the European Union, held in Manama, Bahrain, on 23 April 2001. In this communiqué, both sides underlined their concern at the continuing uncertainty over the Kuwaiti and other prisoners of war and persons unaccounted for, held by Iraq after the Gulf war. Also, they demanded that Iraq meet its obligation under the relevant Security Council resolutions, including resolution 1284 (1999), to resume cooperation with the Tripartite Commission and to extend all necessary cooperation to the International Committee of the Red Cross (ICRC) to reach an immediate and permanent solution to the issue.

7. In another letter addressed to me, dated 4 June 2001 (A/55/981-S/2001/558), the Permanent Representative of Bahrain enclosed the final communiqué of the seventy-ninth session of the Ministerial Council of the Cooperation Council for the Gulf Arab States (GCC), which was held in Jeddah on 2 and 3 June 2001. In that final communiqué, GCC, inter alia, renewed its call to Iraq to discharge in full its obligations under the Security Council resolutions relating to cooperation with ICRC, the high-level Coordinator and the Tripartite Commission in devising an expeditious and definitive solution to the problem of Kuwaiti and third-country prisoners and hostages and the return of all Kuwaiti property in its possession. Similar statements and demands were contained in other documents transmitted by the Permanent Representative of Bahrain to the United Nations (see A/55/727-S/2001/5 and A/55/851-S/2001/277).

8. On 20 June 2001, the President of the Security Council, in a statement to the press, expressed the Council's unanimous support for the work of the Coordinator, Ambassador Yuli Vorontsov. The Council also agreed with the Secretary-General's observations, in particular those concerning the complete impartiality of Ambassador Vorontsov in fulfilling his mandate under resolution 1284 (1999) (see S/2001/582, para. 14), called upon the Government of Iraq to cooperate fully with the Coordinator in resolving all outstanding issues and stressed the importance of dialogue between Ambassador Vorontsov and the Government of Iraq. It was noted that the Council was firmly united on the humanitarian issue of the missing persons.

9. During the open meeting of the Security Council on 26 and 28 June 2001, members of the Council and representatives of Member States paid due attention to the humanitarian issue of the repatriation or return of all Kuwaiti and third-country nationals or their remains. In their statements, it was pointed out that "the issue of missing Kuwaitis ... should be properly resolved at an early date. This issue has long been a source of great suffering for the Kuwaiti people and has remained a priority concern of the countries of the Gulf. In accordance with the relevant provisions of international law, Iraq is obliged to cooperate by identifying and returning to Kuwait the missing Kuwaitis ... the timely and proper resolution of this humanitarian issue will contribute to an early normalization in inter-State relations in the Gulf, as well as to an early comprehensive resolution of the Iraq issue" (China); that "it is disturbing that there is no progress" on the plight of the missing Kuwaiti and third-country nationals and that "The required transparency with regard to missing persons could be achieved through cooperation with the United Nations" (Norway); that "part B of resolution 1284 (1999) obliges Iraq to facilitate the repatriation of all Kuwaiti and third-country nationals or the return of their remains if they are deceased. For the past 11 years, more than 600 families have been living in torment, and they continue to suffer". Iraq is called upon to cooperate with Ambassador Vorontsov "so that he can carry out his task ... This is a major humanitarian issue on which true consensus exists in the Council" (Mali); that "there is a firm international consensus, both among members of the Security Council and within the entire community of nations, on the long-standing tragedy of those innocent victims" (Kuwait); that "... the necessity for Iraq to fully abide by its obligations regarding Kuwaiti and non-Kuwaiti prisoners of war and missing persons, as is mentioned in relevant Security Council resolutions, especially in paragraph 30 of resolution 687 (1991)" (Saudi Arabia); that Iraq is called upon "to fulfil its international obligations and to resume participation in the Tripartite Commission and the Technical Subcommittee ... These are important issues that should not be relegated to the back burner of Council deliberations. The existence of complete consensus in the Security Council on humanitarian issues should provide a strong basis for their early resolution" (Malaysia); that "Iraq states that it has no Kuwaiti prisoners. However, it states in turn that there are Iraqi missing persons. It is difficult to understand

this statement that there are no Kuwaiti prisoners. The case file on each of those persons is fully documented and show that they have disappeared and that they are in Iraq. In order to resolve this issue, Iraq merely has to cooperate with the Coordinator of the Secretary-General, who was appointed for that purpose, and has to participate in the activities of the international committee created for that purpose" (Bahrain); and that "it is of the utmost urgency that there be a return to an appropriate dialogue on the fate of prisoners of war and of those missing in action ... foundations for the promising dialogue would be laid with immediate conciliatory gestures by the Government of Iraq" (Italy) (see S/PV.4336 and S/PV.4336/Resumption 1).

10. The Under-Secretary for Foreign Affairs of Iraq, Dr. Riyadh Al-Qaysi, stated at the aforementioned meeting that "Iraq has returned all prisoners of war and has fulfilled and continues to fulfil the duty of cooperating in investigating the fate of missing persons" (see S/PV.4336/Resumption 1).

11. During a press conference in New York on 29 June 2001, Dr. Riyadh Al-Qaysi stated that the "perennial issue of Kuwaiti POWs and missing persons was brought to the surface by resolution 1284 (1999)". He dismissed claims that Iraq was still holding POWs. According to him, these accusations were deliberately raised in international forums for the purpose of ensuring that the embargo would be maintained against Iraq. He reiterated that Iraq had already repatriated "all Kuwaiti POWs under the supervision of ICRC in 1991".

III. Overview of recent activities related to the repatriation or return of all Kuwaiti and third-country nationals or their remains

12. During the reporting period, the Coordinator continued visiting countries and international organizations to further intensify efforts aimed at the resolution of the humanitarian issue of the repatriation or return of all Kuwaiti and third-country nationals or their remains. The interlocutors of Ambassador Vorontsov stressed that it was most unfortunate that Iraq was still refusing to meet with him because of its well-known attitude to Security Council resolution 1284 (1999).

13. It will be recalled that on 20 March 2001, the Coordinator met in Doha with Mr. Ahmad Abdallah Al-Mahmoud, Minister of State for Foreign Affairs of Qatar. On 21 March 2001, he held a meeting with Sheikh Mohammad Ben Moubarak Al-Khalifa, Minister for Foreign Affairs of Bahrain, in Manama. He also held discussions on 22 March 2001 with Mr. Abdelouahed Belkeziz, the Secretary-General of the Organization of Islamic Conference (OIC) in Jeddah, and on 24 March 2001, with Ambassador Torki M. Saud Al-Kabeer, Under-Secretary for Political Affairs of Saudi Arabia in Riyadh. The Secretary-General of OIC stressed that he would appoint a director within OIC who would deal exclusively with the issue of missing persons and Kuwaiti property.

14. In New York, from 12 to 23 June 2001, the Coordinator had a series of meetings with the members of the Security Council and also with Kuwait's Minister of State for Foreign Affairs, Sheikh Mohammad Sabah Al-Salem Al-Sabah.

15. Ambassador Vorontsov visited Egypt from 24 to 27 June, Jordan on 28 and 29 June and Kuwait from 29 June to 2 July 2001. On 19 July 2001, in Geneva, he held discussions with members of the Tripartite Commission on the margins of their regular meeting. In Cairo, the Coordinator met with Mr. Amre Moussa, the Secretary-General of the League of Arab States (LAS), and with Mr. Ahmad Maher, Minister for Foreign Affairs of Egypt. In Amman, he met with Mr. Abdel-Elah Khatib, Minister for Foreign Affairs of Jordan. In Kuwait, he met with Mr. Jassem Mohammad Al-Khorafi, the Speaker of the National Assembly, with Mr. Khaled S. Al-Jarallah, Under-Secretary of the Ministry of Foreign Affairs, and with members of the Tripartite Commission and the National Committee for Missing Persons and POW Affairs.

16. All the interlocutors of the Coordinator expressed strong support for his activities and encouraged him to continue making every effort to resolve these humanitarian matters. They also voiced concern at Iraq's unwillingness to cooperate with Ambassador Vorontsov. The Secretary-General of LAS, among others, stated that he would encourage the Government of Iraq to cooperate with the Coordinator. The Foreign Minister of Jordan informed Ambassador Vorontsov that the issue of the repatriation or return of all Kuwaiti and third-country nationals could also be addressed within the framework of LAS. Foreign Minister Khatib also noted that the Government of Jordan was prepared to assist the high-level Coordinator in his mission.

17. While the representatives of the National Committee for Missing Persons and POW Affairs of Kuwait noted that Kuwait had presented a new idea about the involvement of ICRC in making progress on these humanitarian issues, Iraq rejected this proposal. A member of this Committee stressed that Kuwait would be "flexible" as long as work was carried out under the "umbrella" of the Tripartite Commission.

18. According to the *Arab Times* of Kuwait, on 16 July 2001 Arab League Secretary-General, Amre Moussa, visited Kuwait and discussed with Kuwaiti officials a number of issues, including missing persons and stolen property. National Assembly Speaker Mr. Jassem Mohammad Al-Khorafi, following the meeting with the Arab League Secretary-General, reaffirmed that their discussion focused on "empowering the Arab body to tackle the issue of Kuwaiti POWs in Iraq". During a meeting with Ambassador Vorontsov on 1 July 2001 in Kuwait, Mr. Al-Khorafi recalled that some Arab countries had suggested that Kuwait and Iraq resolve the issue of missing persons on a bilateral basis. He stressed that Kuwait would be prepared to hold direct talks with Iraq, provided that the Government of Iraq recognized that it was detaining Kuwaiti and third-country nationals.

19. It will be recalled that on 3 July 2001, ICRC extended an invitation to Iraq to participate in the forthcoming session of the Tripartite Commission in Geneva on 19 July 2001. In response, an Iraqi Foreign Ministry official stated that Iraq had notified ICRC that it would not change its earlier position concerning participation in the Tripartite Commission.

20. Before leaving for Geneva to attend the Tripartite Commission meeting, the Chairman of Kuwait's National Committee for Missing Persons and POW Affairs, Sheikh Salem Sabah Al-Salem Al-Sabah, stated that he would request ICRC to share any information on POWs emerging from contacts with the Iraqi authorities. On 21 July 2001, he appealed to Iraq to join the Tripartite Commission talks in order to solve the humanitarian issue of the missing persons.

21. The outcome of the Tripartite Commission's meeting again demonstrated that ICRC remains committed to finding ways of achieving practical results towards resolving the important issue of repatriation or return of all Kuwaiti and third-country nationals.

22. The Coordinator, in his briefing to the Security Council on 20 April 2001, referred to the exchange of letters on the issue of the Saudi pilot, Muhammad Salih Nazirah, and the United States pilot, Michael Speicher (see S/2001/117, S/2001/274 and S/2001/340). More detailed information has been provided to the members of the Security Council during the consultations. Since that time, letters from the Permanent Representative of Iraq dated 1 May 2001 (S/2001/439) and the Permanent Representative of Saudi Arabia dated 21 May 2001 (S/2001/517) have provided additional details on the aforementioned cases. The meeting of the Tripartite Commission also addressed the cases of both pilots.

IV. Observations

23. It is most unfortunate that the Coordinator is not in a position to report more tangible progress on the issue of the repatriation or return of all Kuwaiti and third-country nationals or their remains. It is regrettable that the Government of Iraq is still unwilling to cooperate with Ambassador Vorontsov on the grounds that it rejects resolution 1284 (1999). Nevertheless, I am most grateful that all interlocutors of the Coordinator strongly reiterated their determination and commitment to assist in any way possible in the resolution of this humanitarian issue. I remain hopeful that with their support, the Government of Iraq would at last be convinced to cooperate with ICRC, the Tripartite Commission and its technical Subcommittee, as well as the parties concerned and the Coordinator.

24. Iraq should appreciate the fact that the international community is not selective and that all cases of missing persons, whether Kuwaiti, Saudi, Iraqi or others, would be addressed.* As the Government of Iraq claims to seek a resolution to the issue of its own missing nationals, it is essential that it exercise an appropriate and sensitive understanding of the position held by the Government of Kuwait and other countries concerned.

25. Obviously, the high-level Coordinator will not be able to achieve what he is mandated to accomplish unless and until the Iraqi leadership substantially changes its current attitude. I continue to be firmly convinced that cooperation between the Government of Iraq and Ambassador Vorontsov could constitute the

* It will be recalled that the nationals to be repatriated or returned include, in addition to 570 Kuwaitis, 3 Lebanese, 1 Indian, 4 Iranians, 5 Egyptians, 4 Syrians, 1 Bahraini, 1 Omani and 14 Saudi Arabians. Iraq claims that there are 1,142 missing Iraqis.

beginning of a dialogue through which it would be possible to resolve the issue of repatriation or return of all Kuwaiti and third-country nationals or their remains. I wish to reiterate my gratitude to the members of the Security Council for their continued unanimous support for the efforts of the Coordinator. The efforts made by the League of Arab States and the Organization of the Islamic Conference in this respect are also highly appreciated. These efforts of the international community are an expression of its determination to contribute to devising a satisfactory solution to this issue on purely humanitarian grounds.